

By



S B. No. 471

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, financing, and bond authority of the Texas Water Resources Finance Authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 2, Water Code, is amended by adding Chapter 20 to read as follows:

CHAPTER 20. TEXAS WATER RESOURCES FINANCE AUTHORITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 20.001. LEGISLATIVE PURPOSE AND POLICY. (a) The legislature declares that it is the policy of the state to:

(1) encourage and assist in the conservation and development of the water resources of the state for all useful and lawful purposes by the acquisition, improvement, extension, or construction of water resource conservation and development projects;

(2) encourage the optimum development of the feasible sites available for the construction or enlargement of dams and reservoirs for conservation of the public water of the state held in trust for the use and benefit of the public through assistance and participation in the acquisition and development of water storage facilities and systems or works necessary for filtration, treatment, and transportation of water from storage to points of treatment, filtration, and distribution;

1 (3) aid in the protection of the quality of the water
2 resources of the state by encouraging and assisting in the
3 financing of water quality enhancement projects; and

4 (4) aid in flood control, drainage, subsidence
5 control, recharge, chloride control, agricultural soil and water
6 conservation, and desalinization by encouraging and assisting in
7 the financing of projects necessary to those purposes.

8 (b) The legislature finds that existing mechanisms for
9 implementing the policies stated in Subsection (a) of this section
10 may be enhanced by financing as provided in this subchapter.

11 (c) The legislature finds that to enhance the ability of the
12 state to aid in the accomplishment of the purposes stated in
13 Subsection (a) of this section, it is necessary to create a water
14 resources finance authority for the purpose of increasing the
15 availability of financing by purchasing political subdivision
16 bonds, and the legislature declares that the creation of the
17 authority for this purpose is a public purpose and a use for which
18 public money may be borrowed, spent, advanced, loaned, granted, or
19 appropriated, and that this use serves a public purpose in
20 improving or otherwise benefitting the people of this state. Also,
21 the legislature determines and declares the necessity of enacting
22 this subchapter is in the public interest.

23 Sec. 20.002. DEFINITIONS AND CONSTRUCTION. In this
24 subchapter:

25 (1) "Authority" means the Texas Water Resources
26 Finance Authority.

27 (2) "Authorized investments" means:

1 (A) direct obligations of or obligations the
2 principal of and interest on which are guaranteed by the United
3 States;

4 (B) direct obligations of or participation
5 certificates guaranteed by the Federal Intermediate Credit Bank,
6 Federal Land Banks, Federal National Mortgage Association, Federal
7 Home Loan Banks, and Banks for Cooperatives;

8 (C) direct obligations of or obligations the
9 principal of and interest on which are guaranteed by the State of
10 Texas;

11 (D) bonds of cities, counties, and other
12 political subdivisions of this state, other than bonds issued by a
13 political subdivision to finance a project covered by this chapter;

14 (E) certificates of deposit of state and
15 national banks that satisfy the requirements of Section 2.015,
16 Chapter 240, Acts of the 69th Legislature, Regular Session, 1985
17 (Article 4393-1, Vernon's Texas Civil Statutes), and the rules of
18 the State Depository Board and if the authority or a financial
19 institution acting solely as agent for the authority possesses the
20 collateral securing those deposits; and

21 (F) direct security repurchase agreements made
22 only with state or national banks domiciled in the state under
23 which the authority buys, holds in its possession or the possession
24 of a financial institution acting solely as agent for the authority
25 for a specified time, and then sells back any of the following
26 securities, obligations, or participation certificates:

27 (i) United States government securities;

1 (ii) direct obligations of or obligations
2 the principal of and interest on which are guaranteed by the United
3 States; and

4 (iii) direct obligations of or
5 participation certificates guaranteed by the Federal Intermediate
6 Credit Bank, Federal Land Banks, Federal National Mortgage
7 Association, Federal Home Loan Banks, and Banks for Cooperatives.

8 (3) "Board" means the board of directors of the
9 authority.

10 (4) "Bond" means any type of interest-bearing
11 obligation, including any bond, note, bond anticipation note, or
12 other evidence of indebtedness under this chapter.

13 (5) "Development board" means the Texas Water
14 Development Board.

15 (6) "Director" means a member of the board.

16 (7) "Political subdivision" means a city, county, or
17 other body politic or corporate of the state, including any
18 district or authority created under Article III, Section 52, or
19 Article XVI, Section 59, of the Texas Constitution, state agency,
20 an entity created by an interstate compact to which the state is a
21 party, and any nonprofit water supply corporation created and
22 operating under Chapter 76, Acts of the 43rd Legislature, 1st
23 Called Session, 1933 (Article 1434a, Vernon's Texas Civil
24 Statutes).

25 (8) "Political subdivision bonds" means bonds, notes,
26 or other securities that were issued by and any debt or other
27 contractual obligations that were incurred by a political

1 subdivision for the purpose of financing or refinancing projects
2 for water resource development and conservation, water quality
3 enhancement, flood control, drainage, subsidence control, recharge,
4 chloride control, agricultural soil and water conservation,
5 desalinization, or any combination of these purposes.

6 [Sections 20.003-20.010 reserved for expansion]

7 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

8 Sec. 20.011. CREATION OF AUTHORITY. (a) The Texas Water
9 Resources Finance Authority is created as a governmental entity and
10 a body politic and corporate.

11 (b) The exercise of the powers and duties by the authority
12 under this chapter constitute an essential public purpose of the
13 state in promoting the general welfare of the state and its
14 citizens.

15 Sec. 20.012. BOARD OF DIRECTORS. (a) The authority is
16 governed by a board of directors composed of the six directors of
17 the development board.

18 (b) Each director serves on the board as an additional duty
19 to those required of a member of the development board.

20 Sec. 20.013. COMPENSATION; REIMBURSEMENT. The directors are
21 not entitled to receive compensation for their service on the board
22 but are entitled to be reimbursed for their expenses in performing
23 their powers and duties under this chapter.

24 Sec. 20.014. ORGANIZATION OF BOARD. (a) The board shall
25 select from its membership one person to serve as chairman and one
26 person to serve as vice-chairman.

27 (b) The person selected as chairman shall preside at

1 meetings of the board and perform other duties directed by the
2 board, and the vice-chairman shall preside at meetings of the board
3 in the absence of the chairman.

4 (c) The board shall select persons to serve as secretary and
5 treasurer for the authority. The persons selected as secretary and
6 treasurer are not required to be directors and the positions of
7 secretary and treasurer may be held by one person. The board also
8 may appoint assistant secretaries.

9 (d) The secretary is the custodian of the minutes, books,
10 records, and seal of the board, and the secretary and the treasurer
11 shall perform duties as directed by the board.

12 (e) The chairman, vice-chairman, secretary, and treasurer
13 shall be selected by the board at the first meeting of the board
14 following January 31 of each odd-numbered year.

15 Sec. 20.015. BOARD MEETINGS. (a) The board shall hold
16 regular meetings at times provided by its rules and shall meet at
17 least once each calendar year.

18 (b) The board may hold special meetings at the call of the
19 chairman or on request of three or more directors.

20 Sec. 20.016. RULES AND RESOLUTIONS. The board may adopt
21 rules that are necessary to carry out this chapter and may take
22 official action by adoption of a resolution or order.

23 Sec. 20.017. LIABILITY. A director or officer of the
24 authority is not liable for any bonds issued or contracts executed
25 by the authority.

26 Sec. 20.018. GENERAL FISCAL AUTHORITY. The board may
27 acquire, hold, invest and reinvest in authorized investments,

1 deposit, use, and dispose of the authority's revenues, income,
2 receipts, funds, and money from every source and may select its
3 depository or depositories, inside or outside the state, subject
4 only to this chapter and any covenants with respect to the
5 authority's bonds.

6 Sec. 20.019. PROPERTY TAX EXEMPT. (a) The property of the
7 authority, its income, and its operations are exempt from all taxes
8 and assessments imposed by the state and political subdivisions on
9 property acquired or used by the authority under this chapter.

10 (b) If the authority is dissolved, all of its rights and
11 properties vest in the state.

12 Sec. 20.020. FISCAL YEAR; ANNUAL AUDIT. (a) The authority
13 shall operate on a fiscal year beginning September 1.

14 (b) The board shall have an audit made by the state auditor
15 or by a certified public accountant of the authority's books and
16 accounts for each fiscal year. The cost of the audit shall be paid
17 by the authority.

18 (c) A copy of the audit shall be filed with the governor and
19 with both houses of the legislature on or before January 1 of each
20 year, except if the audit is being made by the state auditor and is
21 not available by January 1, it shall be filed as soon as it is
22 available.

23 Sec. 20.021. AUTHORITY EXPENSES. (a) Expenses incurred by
24 the authority under this Act shall be paid solely from revenues or
25 funds provided or to be provided under this chapter.

26 (b) This chapter may not be construed to authorize the
27 authority to incur any indebtedness or liability on behalf of or

1 payable by the state.

2 (c) The authority may not accept and is not entitled to
3 receive any money appropriated by the state.

4 (d) The board shall use all available sources of revenue and
5 income to pay expenses of operation and maintenance of the
6 authority, to pay the premium, principal of and interest on bonds,
7 and to create and maintain any reserves or funds provided by
8 resolutions authorizing the issuance of bonds.

9 Sec. 20.022. SUITS. The authority may sue and be sued in
10 the courts of this state in the name of the authority, and the
11 courts shall take judicial notice of the creation of the authority.

12 Sec. 20.023. SEAL. The board may adopt a seal for the
13 authority.

14 [Sections 20.024-20.040 reserved for expansion]

15 SUBCHAPTER C. POWERS AND DUTIES

16 Sec. 20.041. GENERAL POWERS AND DUTIES. The authority may
17 exercise any authority necessary or appropriate to carry out the
18 purposes of this chapter.

19 Sec. 20.042. GIFTS, GRANTS, ETC. The board may request and
20 accept for the authority grants, allocations, subsidies,
21 guaranties, aid, contributions, services, labor, materials, gifts,
22 and donations.

23 Sec. 20.043. CONTRACTS. The board on behalf of the
24 authority may enter into contracts with any person to carry out
25 this chapter.

26 Sec. 20.044. PURCHASE OF INSURANCE. The board may purchase
27 for the authority and pay premiums on insurance of any type, in any

1 amounts, and from any insurers the board considers advisable.

2 Sec. 20.045. CONTRACTS WITH DEVELOPMENT BOARD. The
3 authority may enter into contracts with the development board and
4 with consultants as necessary to perform the functions provided by
5 this chapter.

6 [Sections 20.046-20.070 reserved for expansion]

7 SUBCHAPTER D. POLITICAL SUBDIVISION BONDS

8 Sec. 20.071. PURCHASE OF POLITICAL SUBDIVISION BONDS. The
9 board may purchase political subdivision bonds including bonds that
10 are acquired or owned by the development board.

11 Sec. 20.072. ACQUISITION OF CERTAIN DEVELOPMENT BOARD BONDS.
12 If the board agrees to purchase political subdivision bonds from
13 the development board that have not been purchased by the
14 development board at the time of the agreement, the board may pay
15 the purchase price for those bonds in exchange for the agreement of
16 the development board to transfer those bonds to the board at the
17 time the development board acquires them.

18 Sec. 20.073. PRICE AND TERMS OF PURCHASE. The board shall
19 purchase political subdivision bonds at prices and under terms the
20 board determines to be reasonable.

21 Sec. 20.074. REVENUE BONDS. (a) The board may issue
22 revenue bonds in the name of the authority to finance the cost of
23 acquisition of political subdivision bonds and to pay the cost of
24 bond issuance.

25 (b) The board may provide for payment of the premium,
26 principal of, and interest on revenue bonds by pledging all or part
27 of the revenue derived from political subdivision bonds acquired or

1 to be acquired by the authority or from other sources of funds
2 available to the authority.

3 Sec. 20.075. CONTRACT FOR OBTAINING COMPLIANCE WITH
4 POLITICAL SUBDIVISION BONDS. The board shall enter into a contract
5 with the development board for the development board to perform the
6 functions required to ensure that the political subdivisions pay
7 the debt service on political subdivision bonds and observe the
8 conditions and requirements set forth in those bonds.

9 Sec. 20.076. ENFORCEMENT OF POLITICAL SUBDIVISION BONDS.
10 (a) If there is a default in the payment of principal of or
11 interest on political subdivision bonds purchased by the authority
12 or any other default as defined in the proceedings or indentures
13 authorizing the issuance of the bonds, the attorney general shall
14 institute appropriate proceedings for mandamus or other legal
15 remedies to compel the political subdivision or its officers,
16 agents, and employees to cure the default by performing those
17 duties that they are legally obligated to perform.

18 (b) The proceedings shall be brought and venue shall be in a
19 district court of Travis County.

20 (c) This section is cumulative of any other rights or
21 remedies to which the board may be entitled.

22 [Sections 20.077-20.100 reserved for expansion]

23 SUBCHAPTER E. BOND PROCEDURES

24 Sec. 20.101. ISSUANCE OF BONDS. For the issuance of bonds
25 under this chapter, the board may exercise the authority granted to
26 the governing body of an issuer with regard to issuance of
27 obligations under Chapter 656, Acts of the 68th Legislature,

1 Regular Session, 1983 (Article 717q, Vernon's Texas Civil
2 Statutes), to the extent that it is not inconsistent with this
3 chapter.

4 Sec. 20.102. CONDITIONS FOR ISSUANCE OF BONDS. (a) Bonds
5 may be issued as various series and issues.

6 (b) Bonds issued by the authority may mature serially or
7 otherwise not later than 50 years after the date on which they are
8 issued.

9 (c) The bonds may bear interest at a rate or rates
10 determined in accordance with the resolution or order authorizing
11 the issuance of the bonds but not to exceed the net effective
12 interest rate authorized by Chapter 3, Acts of the 61st
13 Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas
14 Civil Statutes).

15 (d) Rates of interest on bonds may be fixed, variable,
16 floating, adjustable, or otherwise.

17 Sec. 20.103. PERIODIC DETERMINATION OF INTEREST. A bond
18 resolution or order may provide for the periodic determination of
19 interest rates without the board being required to give specific
20 approval.

21 Sec. 20.104. PERSONS DESIGNATED TO ACT AS AGENTS OF BOARD.

22 (a) A bond resolution or order may delegate to one or more
23 officers, employees, or agents designated by the board authority to
24 act on behalf of the board during the time bonds are outstanding to
25 fix dates, prices, interest rates, and interest payment periods and
26 to perform other procedures specified in the resolution.

27 (b) The person designated by the board may adjust the

1 interest on bonds as necessary to permit the bonds to be sold or
2 resold at par in conjunction with secondary market transactions.

3 Sec. 20.105. SECURITY QUALIFICATIONS. The board may take
4 any action necessary to qualify the authority bonds for offer and
5 sale under the securities laws and regulations of the United
6 States, this state, and other states of the United States.

7 Sec. 20.106. INVESTMENT SECURITIES. The bonds and any
8 interest coupons are investment securities under Chapter 8,
9 Business & Commerce Code, and may be issued registrable as to
10 principal or as to both principal and interest or may be made
11 redeemable before maturity at the option of the authority or may
12 contain a mandatory redemption provision.

13 Sec. 20.107. FORM OF BONDS. (a) The authority's bonds may
14 be issued in the form, denominations, and manner and under the
15 terms, conditions, and details as provided by the board in the
16 resolution or order authorizing their issuance.

17 (b) The bonds shall be signed and executed as provided by
18 the board's resolution or order authorizing the issuance of the
19 bonds.

20 Sec. 20.108. FUNDS. (a) In the resolution or order
21 authorizing issuance of bonds, the board may make additional
22 covenants with respect to the bonds and the pledged revenues and
23 may provide for the flow of funds and the establishment,
24 maintenance, and investment of funds.

25 (b) The funds established may include an interest and
26 sinking fund, a reserve fund, and other funds that will be kept and
27 maintained by or under the direction of the board.

1 (c) Any funds established by the board are not to be part of
2 the state treasury but, at the direction of the board, may be kept
3 and held in escrow and in trust by the state treasury on behalf of
4 the authority and the owners of the bonds and used only as provided
5 by this chapter.

6 (d) Money in the funds shall be invested in authorized
7 investments as provided by any bond resolutions and orders of the
8 authority.

9 (e) Legal title to money in any fund is in the authority
10 unless or until paid from the fund as provided by this chapter or
11 the resolutions or orders authorizing the authority's bonds.

12 (f) The state treasurer, as custodian of any of the funds,
13 shall administer the funds solely and strictly as provided by this
14 chapter and the resolutions or orders authorizing the bonds, and
15 the state may not take any other action relating to any of those
16 funds except those specified in this chapter and the resolutions
17 and orders authorizing the bonds.

18 Sec. 20.109. RESOLUTIONS, ORDERS, ETC. (a) The resolutions
19 or orders authorizing the bonds may prohibit the further issuance
20 of bonds or other obligations payable from the pledged revenue or
21 may reserve the right to issue additional bonds to be secured by a
22 pledge of and payable from the revenue on a parity with or
23 subordinate to the lien and pledge in support of the bonds being
24 issued.

25 (b) The orders or resolutions of the board issuing bonds may
26 include other provisions and covenants that the board determines
27 necessary.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 3, 1987

TO: Honorable Grant Jones, Chairman
Committee on Finance
Senate Chamber
Austin, Texas

In Re: Senate Bill No. 471
By: Jones

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 471 (relating to the creation, administration, powers, duties, financing, and bond authority of the Texas Water Resources Finance Authority) this office has determined the following:

The bill would create the Texas Water Resources Finance Authority which would issue revenue debt in the open market, the proceeds of which would be paid to the Water Development Board for the purchase of the Board's loan portfolio. The income flow of the portfolio plus insurance purchased from a private insurance carrier would be used to support and guarantee the revenue bonds.

The Water Development Board would use a portion of the proceeds from the Water Resources Finance Authority to defease all general obligation debt issued by the Board and currently outstanding. Any remaining funds, which could be as much as \$72 million, could be used for loans to local political subdivisions pursuant to Article III, sections 49-c, 49-d and 49-d-1 of the Texas Constitution.

The bill would prohibit the Texas Water Resources Finance Authority from incurring any indebtedness or liability on behalf of or payable by the State, or from receiving any appropriated funds from the State. There would be no staff or budget requirements imposed on the State as a result of this legislation.

The fiscal implications to units of local government cannot be accurately determined for purposes of this fiscal note but it seems reasonable to assume that there would be some advantage to those which anticipate water resource problems that may be addressed under Article III, sections 49-c, 49-d and 49-d-1 of the Texas Constitution.

Source: Water Development Board;
LBB Staff: JO, HES, JWH, JG, LV

S. B. No. 471

By Grant Hills

AN ACT relating to the creation, administration, powers, duties, financing, and bond authority of the Texas Water Resources Finance Authority.

2-19-87 Filed with the Secretary of the Senate

FEB 19 1987

FEB 24 1987

Read and referred to Committee on NATURAL RESOURCES

referred to FINANCE

Reported favorably

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by: { unanimous consent
_____ yeas, _____ nays

Read second time, _____, and ordered engrossed by: { unanimous consent
a viva voce vote
_____ yeas, _____ nays

Caption ordered amended to conform to the body of the bill.

Senate and Constitutional 3 Day Rule suspended by a vote of _____ yeas, _____ nays.

Read third time, _____, and passed by _____ yeas, _____ nays.

SECRETARY OF THE SENATE

OTHER ACTION:

Engrossed

Sent to House

Engrossing Clerk

Received from the Senate

Read first time and referred to Committee on _____

Reported favorably amended, sent to Printer at _____

Printed and Distributed _____

Sent to Committee on Calendars _____

Read Second time (amended): passed to third reading (failed)

by (Non-Record Vote) Record Vote of _____ yeas, _____ nays _____ present not voting.

Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ yeas, _____ nays _____ present not voting.

Read third time (amended); finally passed (failed) by a (Non-Record Vote) Record Vote of _____ yeas, _____ nays _____ present not voting.

Caption ordered amended to conform to body of bill.

Returned to Senate.

CHIEF CLERK OF THE HOUSE

Returned from House without amendment.

Returned from House with _____ amendments.

Concurred in House amendments by a viva voce vote _____ yeas, _____ nays.

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____, _____, _____, and _____.

_____ House granted Senate request. House conferees appointed: _____, Chairman; _____, _____, _____.

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by: _____

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommended to Conference Committee

_____ Conferees discharged

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays